

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CONNECTU LLC,

Plaintiffs,

v.

MARK ZUCKERBERG, EDUARDO SAVERIN,  
DUSTIN MOSKOVITZ, ANDREW MCCOLLUM,  
CHRISTOPHER HUGHES, and FACEBOOK,  
INC.,

Defendants.

CIVIL ACTION NO. 1:04-CV-11923  
(DPW)

MARK ZUCKERBERG, and FACEBOOK, INC.,

Counterclaimants,

v.

CONNECTU LLC,

Counterdefendant,

and

CAMERON WINKLEVOSS, TYLER  
WINKLEVOSS, and DIVYA NARENDRA,

Additional Counterdefendants.

**DECLARATION OF THERESA A. SUTTON IN SUPPORT OF  
FACEBOOK DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
MEMORANDUM OF LAW IN COMPLIANCE WITH THE COURT'S  
JUNE 22, 2006 ORDER REGARDING LEGAL ARGUMENTS RAISED  
BY FACEBOOK DEFENDANTS**

I, Theresa A. Sutton, declare:

1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel for Defendants Mark Zuckerberg, Dustin Moskovitz, Andrew McCollum, Christopher Hughes, and TheFacebook, Inc. (collectively, the “Facebook Defendants”). I make this Declaration in support of Facebook’s Opposition to Plaintiff’s Memorandum Of Law In Compliance With The Court’s June 22, 2006 Order Regarding Legal Arguments Raised By Facebook Defendants. I am an active member in good standing of the California State Bar, and I am admitted to appear *pro hac vice* before this Court. I have personal knowledge of the facts stated herein and if called as a witness, could and would competently testify thereto.

2. Attached hereto as **Exhibit A** is a true and correct copy of the complaint filed in *Facebook, Inc. v. ConnectU LLC, Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss, and Divya Narendra*, California Superior Court, Case No. 1-05-CV-047381.

3. Attached hereto as **Exhibit B** is a true and correct copy of the Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction filed in the California Action.

4. Attached hereto as **Exhibit C** is a true and correct copy of the California court’s Order Re: Demurrer of Defendant ConnectU LLC to Complaint and Motion of Defendants Cameron Winklevoss, Tyler Winklevoss, Howard Winklevoss and Divya Narendra to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction.

5. Before the court entered its order granting the Motion to Quash, the parties engaged in discovery related to the court’s exercise of personal jurisdiction over the individual defendants. As part of that discovery, Facebook propounded a set of special interrogatories on all defendants, one of which (Interrogatory No. 14) sought the identity of ConnectU’s current and former Members, Managers, and Board of Managers, as defined in the Operating

Agreement, as well as the dates of their membership. Attached hereto as **Exhibit D** is a true and correct copy of The Facebook, Inc.'s First Set of Special Interrogatories to Defendant ConnectU.

6. Attached hereto as **Exhibit E** is a true and correct copy of relevant excerpts of the California Action defendants' Responses and Objections to Plaintiffs First Set of Special Interrogatories (Nos. 1-23).

7. Attached hereto as **Exhibit F** is a true and correct copy of Notice of Motion and Memorandum of Points and Authorities in Support of TheFacebook, Inc.'s Motion to Compel Supplemental Responses and Production of Documents in Response to Its First Sets of Special Interrogatories and Requests for Production. **[FILED UNDER SEAL]**

8. Attached hereto as **Exhibit G** is a true and correct copy of the California court's Order After Hearing.

9. Attached hereto as **Exhibit H** is a true and correct copy of Messrs. Winklevoss's and Narendra's Amended Responses to the First Set of Special Interrogatories.

10. Attached hereto as **Exhibit J** is a true and correct copy of ConnectU's 2004 composite tax returns indicating that Mr. Narendra was a Member of ConnectU LLC during that tax year. **[FILED UNDER SEAL]**

11. Attached hereto as **Exhibit K** is a chart detailing statements made by ConnectU and Messrs. Winklevoss and Narendra establishing that Mr. Narendra has been a Member of ConnectU LLC since it was formed. **[FILED UNDER SEAL]**

12. Attached hereto as **Exhibit L** is a true and correct copy of Form Interrogatories, propounded by Facebook to Mr. Narendra.

13. Attached hereto as **Exhibit M** is a true and correct copy of Amended Response of Defendant Divya Narendra to Form Interrogatories, propounded by Facebook.

14. Attached hereto as **Exhibit N** is a true and correct copy of Facebook's First Set of Requests for Admission Directed to Defendant Divya Narendra.

15. Attached hereto as **Exhibit O** is a true and correct copy of Response of Divya Narendra to First Set of Requests for Admission, propounded by Facebook.

16. Attached hereto as **Exhibit P** is a true and correct copy of the Supplemental Declarations of Divya Narendra and Messrs. Winklevoss in Support of Defendants' Reply to Opposition to Motion to Quash Service of Complaint and Summons for Lack of Personal Jurisdiction.

17. Attached hereto as **Exhibit Q** is a true and correct copy of an email from Cameron Winklevoss to Maria Antonelli, dated January 18, 2005. **[FILED UNDER SEAL]**

18. Attached hereto as **Exhibit R** is a true and correct copy ConnectU's Initial Disclosures served in this matter on April 7, 2005.

19. Attached hereto as **Exhibit S** is a true and correct copy of the Disclaimer Confidential Disclosure Agreement between iMarc and ConnectU LLC, dated December 7, 2004. **[FILED UNDER SEAL]**

20. Attached hereto as **Exhibit T** is a true and correct copy of a contract with Animal 57 Productions, dated February 21, 2004. **[FILED UNDER SEAL]**

21. Attached hereto as **Exhibit U** is a true and correct copy of the Harvard Connection On-Line Community Report. **[FILED UNDER SEAL]**

22. Attached hereto as **Exhibit V** is a true and correct copy of a September 9, 2004, The Daily Free Press Article.

23. Attached hereto as **Exhibit W** is a true and correct copy of a March 5, 2004, email from Cameron Winklevoss to Howard Winklevoss regarding domain names. **[FILED UNDER SEAL]**

24. Attached hereto as **Exhibit X** is a true and correct copy of Plaintiff and Counterclaim Defendant ConnectU LLC's Responses to Defendant and Counterclaim Plaintiff TheFacebook, Inc.'s First Set of Interrogatories (Nos. 1-17), dated August 22, 2005. **[FILED UNDER SEAL]**

25. Attached hereto as **Exhibit Y** is a true and correct copy of the California court's Order After Hearing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge. Executed this 27th day of July, 2006, at Menlo Park, California.

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/s/ Theresa A. Sutton /s/  
Theresa A. Sutton

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on July 27, 2006.

Dated: July 27, 2006.

Respectfully submitted,

/s/ I. Neel Chatterjee /s/

I. Neel Chatterjee